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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,705	06/18/2001	Mitchell James Hubert	04027.00008	1042

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IP LEGAL DEPARTMENT  
TYCO FIRE & SECURITY SERVICES  
ONE TOWN CENTER ROAD  
BOCA RATON, FL 33486

EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

17

<b>Office Action Summary</b>	<b>Application No.</b> 09/883,705	<b>Applicant(s)</b> HUBERT ET AL.	
	<b>Examiner</b> Cephia D. Toomer	<b>Art Unit</b> 1714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7,13,15-19,21-23,27 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,13,15-19,21-23,27 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

19

### **DETAILED ACTION**

This Office action is in response to the amendment filed December 13, 2004 in which claims 1-7, 18 and 27 were amended and claim 30 was added.

1. The indicated allowability of claims 13, 15-17 and 21-23 is withdrawn in view of the newly discovered reference(s) to Chen (US 5,990,486). Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 13, 15-19, 21-23, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 5,990,486) in view of Biller (WO9743012).

Chen teaches a method of measuring the amount of solute added to an aqueous stream wherein the solutes are those useful in fire fighting applications (see abstract; col. 3, lines 44-49; claim 1). The method requires 10000-1 ppm of an indicator agent that may be detected by a light source (see col. 3, lines 10-20; col. 4, lines 10-15, 61-64). The indicator agent may be water-soluble (see col. 4, lines 14-15). The amount of solute detected is compared to a standard (see col. 4, line 67 through col. 5, lines 1-10, 20-26, 39-43; Example 1). Chen fails to teach that the fire-fighting composition contains

Art Unit: 1714

a foamable firefighting agent comprising surfactants and glycol ethers. However, Biller teaches this difference.

Biller teaches fire-fighting foam concentrates wherein seawater is used as the diluent (see abstract; page 14, lines 31-33). The concentrate contains foamable surfactant fire fighting agents and water-soluble dye (see component description page 6, lines 1-27). The concentrate comprises 12-34.9 % surfactant, 0.1-0.5% dye and 8.75-25 % glycol ethers (see page 7, lines 8-27). Biller teaches that the prior art has used fire fighting foams containing fluorocarbon surfactants with salt water and that these foams resist breakdown by dry chemical agents. While Biller recognizes the harm that these agents may cause the environment and the rapid drainage of these foams, Biller also recognizes that they are effective fire fighting agents. See page 4, lines 21-33 and page 5, lines 1-5.

It would have been obvious to one of ordinary skill in the art to have employed a fire fighting foam concentrate in the method of Chen because Chen is not limited to any particular type of fire fighting agent and the general teaching of fire fighting agent encompasses conventional foam fire fighting concentrates.

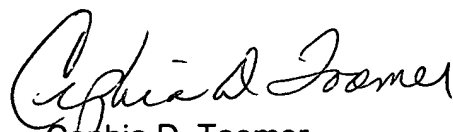
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone

Art Unit: 1714

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cephia D. Toomer". The signature is fluid and cursive, with the first name being the most prominent.

Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

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